

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA, ) Docket No. 3:10CR251  
Plaintiffs, ) Toledo, Ohio  
v. ) September 2, 2010  
HOR I. AKL, )  
Defendant. )

EXCERPT OF TRANSCRIPT OF BOND HEARING  
BEFORE THE HONORABLE JAMES G. CARR  
UNITED STATES DISTRICT JUDGE

## APPEARANCES:

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1 Proceedings recorded by mechanical stenography, transcript  
2 produced by notereading.  
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COURTROOM DEPUTY: Case number 3:10CR251, United States of America versus Hor Akl, matter called for bond hearing.

THE COURT: Mr. Herdman.

MR. HERDMAN: Good afternoon, Your Honor.

THE COURT: Government prepared to proceed?

MR. HERDMAN: Yes, we are.

THE COURT: Mr. Helmick?

MR. HELMICK: Yes, Your Honor, we're ready to proceed. Thank you.

THE COURT: And the defendant's present?

MR. HELMICK: Yes, Judge. And for the record, Mr. Schulman is here as well on behalf of Amera Akl because our request affects the terms and conditions of her bond as well.

THE COURT: Right. The pretrial service officer, Mr. Martin, told me that.

Mr. Herdman, your response to the report?

MR. HERDMAN: Well, we continue to have concerns, Your Honor, with respect to the property. I did want to point The Court to -- I did a little bit of legal research, I didn't find any persuasive authority to this, but property that was provided that assured for a bond that's actually in 3142, 18 U.S.C., I thought it was important to point out that it actually references sufficient value of

1 unencumbered property, and obviously the government's  
2 position here is that this property is encumbered twice. I  
3 actually flagged the page for you. And just for counsel  
4 that's 18 U.S.C. 3142 little (a)1B(II). And our position,  
5 Your Honor, is that the property that's been proposed is  
6 encumbered two ways, one is conventional mortgages --

7 THE COURT: They are of varying amounts.

8 MR. HERDMAN: The second is this property's  
9 already encumbered by the liens placed on it by The Court  
10 with respect to Amera Akl's bond. And the statute  
11 obviously is not clear on this, there's no persuasive legal  
12 authority, but I felt like I wanted the record to be clear  
13 with respect to the language of the statute, and at least  
14 the sense or the spirit of it seems to be that this  
15 property be unencumbered, which I think lends some support  
16 for the government's position.

17 THE COURT: I would read it the other way,  
18 perhaps not surprisingly that at least under the spirit of  
19 bill format that directs those to determine whether there  
20 are conditions sufficient reasonably to ensure the  
21 defendant's appearance and avoid danger to the community.  
22 In other words, I think that the statute ultimately favors  
23 release rather than detention. I think the Constitution  
24 would require that the statute ought to be interpreted in  
25 light of that as the value of property absent any

1 encumbrances, but your point that it would be doing double  
2 duty is well taken. Are these the exact same properties or  
3 lower properties or what's --

4 MR. HELMICK: Judge, it's the same as proposed  
5 before. You might remember --

6 THE COURT: I meant, as are related to the wife?  
7 In other words, is this the same property that's being  
8 posted twice, or do you have additional property?

9 MR. HELMICK: Judge, there's one piece of  
10 property, the proposed property, 8703 Garden Road, by Nazem  
11 Akl is not -- has not been put up for Amera, and that has  
12 equity of about \$235,000 the way I read the numbers. That  
13 would be in addition to the other property that's posted  
14 for Amera.

15 THE COURT: And if I count correctly, and tell me  
16 if I don't, the property that's being posted as equity of  
17 about a million dollars.

18 MR. HELMICK: Judge, I think that's a fair net if  
19 we take out mortgages.

20 THE COURT: Right.

21 MR. HELMICK: That's correct, Judge, just over a  
22 million dollars.

23 THE COURT: Okay. And if I recall correctly,  
24 there's pretty common understanding about two things,  
25 number one, that we're talking about the risk of flight

1 rather than risk of danger to the community from either of  
2 these defendants. And number two, or at least substantial  
3 risk of danger with an issue of substantial risk of flight  
4 being greater concern and consideration. And then I think  
5 that the defendant has not disagreed with my presuming,  
6 solely for purposes of this proceeding, solely for these  
7 purposes without requiring the government to go into a  
8 lengthy presentation of the weight and sufficiency of its  
9 evidence which, of course, is an extremely important  
10 factor, but without recalling upon the government to do so,  
11 presuming that there's a substantial likelihood of  
12 conviction solely for purposes of these proceedings. And  
13 anything further at all, Mr. Herdman?

14 MR. HERDMAN: One point of clarification with  
15 respect to the property. The issue that arose on, I  
16 believe it was July 27th, was with respect to Abdul Akl.  
17 He had posted a property in the amount of \$250,000. I  
18 believe the complication was that he was in Lebanon at the  
19 time, and his power of attorney ended up being proposed on  
20 his behalf. I pointed out to The Court that my  
21 understanding from Mr. Abdul Akl's testimony on  
22 June 8th with respect to Amera Akl's bond, is that he  
23 actually has a residence that's worth approximately one and  
24 a half million dollars, I don't remember exactly what the  
25 figure was. The Court had expressed some reservations with

1 him posting this \$250,000 property as opposed to his  
2 residence. I -- subsequent to that, we did discuss that is  
3 The Court, and counsel discussed leaving that property off  
4 of this list, so I just want, as a point of clarification  
5 determine whether, in fact, we're talking about including  
6 that property in the posting or not?

7 THE COURT: At this point no, because I don't  
8 think he's come forward to offer it so, Mr. Helmick, is  
9 that correct?

10 MR. HELMICK: That's exactly right, Judge. And  
11 Najah Joseph is here with the power of attorney on behalf  
12 of his property here listed \$249,000.

13 THE COURT: Are all the property owners here?

14 MR. HELMICK: Judge, I may have lost a couple of  
15 whom you inquired at the last hearing. One had a, I think  
16 an MRI or an important medical test this afternoon, so  
17 there may be a couple that aren't here. But anyone who's  
18 not here you spoke with them at the last hearing about  
19 their willingness to put up the property, and that  
20 importance.

21 THE COURT: Property owners who are here maybe  
22 come to this side of the bar and find a seat somewhere,  
23 please.

24 MR. HELMICK: Anyone here who is going to post  
25 property for Hor, please come forward now if you would,

1 please.

2 THE COURT: Mr. Helmick, are there seats enough  
3 there?

4 MR. HELMICK: There's a couple here if it's all  
5 right with the marshals, Your Honor.

6 THE COURT: Oh, yeah, is that okay with the  
7 marshals? Okay.

8 MR. HELMICK: Sorry, Judge, go ahead.

9 THE COURT: I'm going to go ahead and grant  
10 release on these conditions and perhaps others. I'm  
11 certainly going to hear from the government with regard to  
12 any other conditions. In addition to these, I'm going to  
13 require, unless it's already happened, that both defendants  
14 surrender passports and driver's licenses. Has that  
15 happened yet, do we know, Kyle?

16 MR. HERDMAN: I believe it has, Your Honor.

17 PROBATION OFFICER: I'm not sure.

18 MR. HERDMAN: I know there was at least one  
19 passport that was turned over to --

20 PROBATION OFFICER: That was hers.

21 THE COURT: But also the driver's licenses?

22 MR. HERDMAN: I don't know.

23 MR. HELMICK: For Mr. Akl I believe they have  
24 both passports, U.S. and Lebanese and his driver's license  
25 as well.

1                   MR. HERDMAN: And just to clarify, those -- with  
2 the exception all those documents, with the exception of  
3 Amera Akl's passport are with the FBI.

4                   THE COURT: Well, as long as they're not in  
5 possession of them, okay, as long as either pretrial  
6 services or -- not yet government agent's custody, then  
7 pretrial service to be kept pending final disposition of  
8 these proceedings. I've been made aware of -- with regard  
9 to I think one of the custodians regarding a couple of the  
10 people, in any event, some prior contact with the law. I  
11 don't find that reason to disqualify their involvement,  
12 relatively minor. And as I say, if I count correctly  
13 roughly a million dollars or more is being posted to secure  
14 the appearance of this defendant. And I think the fact  
15 that it's also being posted, or at least most of it, to  
16 secure the appearance of the co-defendant really doesn't  
17 matter. These are the people who know these individuals  
18 better than probably anybody else, at least anybody else  
19 involved in the case, and they're willing to accept the  
20 risk and the consequences. And let me ask you, sir, if you  
21 can just tell me your name and -- Mr. Helmick, why don't  
22 you introduce them?

23                   MR. HELMICK: I will, Judge, I'd be glad to.  
24 Your Honor, standing right now is Nazem N-A-Z-E-M Akl,  
25 A-K-L, and he is the defendant Hor Akl's first cousin.

1 Resides 8703 Garden Road in Monclova and is willing to put  
2 up that property at this time. Would you like to inquire,  
3 Judge?

4 THE COURT: Why don't you introduce to me the  
5 other individual.

6 MR. HELMICK: Sitting next to him, Your Honor,  
7 Akrum Mahmoud, he's the third down on the chart I  
8 originally proposed to The Court. If The Court needs a  
9 copy -- he resides 1805 Manhattan in Toledo, and he is  
10 Amera's brother in law. So she would be residing at his  
11 home with her sister Attaya and him -- I'm sorry,  
12 Barcelona, Judge, I gave you the wrong address 3617  
13 Barcelona. I apologize.

14 THE COURT: Amy, can you --

15 MR. HERDMAN: I was just going to inquire simply  
16 that they be sworn, Your Honor.

17 THE COURT: If you hadn't interrupted me, we were  
18 getting to that point.

19 MR. HERDMAN: I'm sorry, I thought you were  
20 leaning that way.

21 THE COURT: Amy, if you'll ask them to swear or  
22 affirm the statements.

23 (The above-mentioned individuals were sworn  
24 at this time on the record.)

25 THE COURT: And let me start first with

1 Mr. Mahmoud. You've heard what Mr. Helmick said?

2 MR. MAHMOUD: Yes.

3 THE COURT: And you are willing to post property  
4 that you own at 3617 Barcelona here in Toledo; is that  
5 correct --

6 MR. MAHMOUD: Yes.

7 THE COURT: -- to secure the appearance of both  
8 the defendants in this case; is that correct?

9 MR. MAHMOUD: Yes.

10 THE COURT: You understand that you don't have to  
11 do this?

12 MR. MAHMOUD: Yes.

13 THE COURT: Okay. And this is your family  
14 residence; is that correct?

15 MR. MAHMOUD: Yes.

16 THE COURT: And do you own any other real estate?

17 MR. MAHMOUD: Yes, my brother and I own 1805 East  
18 Manhattan.

19 THE COURT: But that's also being posted,  
20 correct?

21 MR. MAHMOUD: Yes.

22 THE COURT: Do you understand that this is a very  
23 serious obligation that you are undertaking, and that if  
24 either of the defendants fails to appear for each and every  
25 court appearance, and I declare a forfeiture which would

1 happen, property will be sold by the United States  
2 marshals, and the proceeds of it given to the United States  
3 government, you understand that?

4 MR. MAHMOUD: Yes.

5 THE COURT: You understand that you would still  
6 remain obligated for the mortgage in that property?

7 MR. MAHMOUD: Yes.

8 THE COURT: And you understand also I wouldn't  
9 care, you understand that?

10 MR. MAHMOUD: Yes.

11 THE COURT: And you are also willing to assume  
12 the responsibility of being the what we call the third  
13 party custodian --

14 MR. MAHMOUD: Yes.

15 THE COURT: -- for Mrs. Akl. And again, what's  
16 your relationship?

17 MR. MAHMOUD: My sister-in-law.

18 THE COURT: Your sister?

19 MR. HELMICK: Judge, we also request that The  
20 Court would consider that he be third party custodian, if  
21 needed, for Hor Akl as well.

22 THE COURT: In terms of?

23 MR. HELMICK: Coverage at the other house, Judge.

24 THE COURT: That's fine with me. Do you have any  
25 questions of me?

1 MR. MAHMOUD: No, sir.

2 THE COURT: Have you had a chance to talk to  
3 Mr. Helmick and get some sense also of what all this  
4 involves and the risk that you're running?

5 MR. MAHMOUD: Yes.

6 THE COURT: And knowing all that, you're willing  
7 to do what you're offering to do?

8 MR. MAHMOUD: Yes.

9 THE COURT: Do you understand that if any time  
10 you get concerned for any reason whatsoever, all you have  
11 to do is to call either the U.S. attorney's office, my  
12 office or pretrial services and say, time out, folks. I --  
13 no more, and your -- your obligations will be released  
14 immediately?

15 MR. MAHMOUD: Yes.

16 THE COURT: And the other thing, you understand  
17 that as a third-party custodian, your primary  
18 responsibility is to The Court and not to your sister or  
19 brother-in-law, do you understand that?

20 MR. MAHMOUD: Yes.

21 THE COURT: And indeed, it's in your interest  
22 that you understand that, and my point simply is you'll  
23 be -- you'll be made aware of all the conditions that each  
24 has to follow?

25 MR. MAHMOUD: Yes.

1                   THE COURT: And if you have any reason to believe  
2 they've broken one of those conditions or are about to  
3 break one or even thinking about breaking one, you  
4 absolutely must notify the authorities, do you understand  
5 that?

6                   MR. MAHMOUD: Yes.

7                   THE COURT: Of course I'm talking principally  
8 about the risk of flight, but any of these other  
9 conditions.

10                  MR. MAHMOUD: Yes.

11                  THE COURT: If they fail to appear or some other  
12 condition is violated, that you will be required to show  
13 cause, you will be required to tell me why you didn't tell  
14 us, you understand that?

15                  MR. MAHMOUD: Yes.

16                  THE COURT: And if I don't accept what you say,  
17 you can be held in contempt of court.

18                  MR. MAHMOUD: Yes.

19                  THE COURT: You understand that?

20                  MR. MAHMOUD: Yes.

21                  THE COURT: Mr. Herdman, Mr. Helmick, anything  
22 further that you would want to ask?

23                  MR. HELMICK: Not at this time.

24                  THE COURT: Mr. Herdman, anything you want to ask  
25 this witness?

1                   MR. HERDMAN: Just briefly, Your Honor. He did  
2 testify as custodian, I believe, for or at least the  
3 property owner on behalf of Amera Akl, so he's already  
4 testified under oath. So I think this is -- this can be  
5 relatively brief. One thing I did not inquire about last  
6 time, sir, you have a concealed weapon permit?

7                   MR. MAHMOUD: Yes.

8                   MR. HERDMAN: You have no firearms anymore?

9                   MR. MAHMOUD: Just I have one hunting gun, I can  
10 get rid of it.

11                  MR. HERDMAN: It says here that you no longer  
12 have a firearm, your brother took possession of it?

13                  MR. MAHMOUD: Yes, it was 9-millimeter.

14                  THE COURT: I couldn't hear what you said, sir.

15                  MR. MAHMOUD: Hunting, one shot and then done. I  
16 just remember I had it in the attic, I never used it.

17                  MR. HELMICK: He had a 9-millimeter pistol, he  
18 gave that to another family member, so it's outside the  
19 house. He just remembers he has an old single shot hunting  
20 rifle. He's willing to get rid of that as well. Did I get  
21 that right?

22                  MR. MAHMOUD: Yes.

23                  THE COURT: Mr. Herdman, go ahead.

24                  MR. HERDMAN: I may have asked you this last  
25 time, you are familiar with the allegations that the

1 indictment --

2 MR. MAHMOUD: Yes.

3 MR. HERDMAN: Specifically with respect to  
4 Mr. Akl, you're familiar with he traveled to -- are you  
5 familiar with the allegations in the indictment that  
6 Mr. Akl traveled over to Lebanon and met with  
7 representatives of a foreign terrorist organization  
8 Hezbollah.

9 MR. MAHMOUD: Yes, I understand. I don't know if  
10 he did or not.

11 MR. HERDMAN: That's not what I'm asking. You're  
12 aware of the allegations?

13 MR. MAHMOUD: Yes.

14 MR. HERDMAN: Have you read the indictment?

15 MR. MAHMOUD: No, just heard details that's it.

16 MR. HERDMAN: And despite all that you know about  
17 the charges that Mr. and Mrs. Akl are facing, are you still  
18 willing to serve as custodian for both of them?

19 MR. MAHMOUD: Yes.

20 MR. HELMICK: Judge, I'll just represent to The  
21 Court that I believe Akrum has been present at every  
22 meeting with the family discussing the nature of the  
23 charges and proceedings, so he may not have read the  
24 indictment, he's well versed as to what the charges are in  
25 this case.

1 THE COURT: Is that correct?

2 MR. MAHMOUD: Yes, sir.

3 THE COURT: Okay. That's -- that's fine. I find  
4 that to be acceptable, and that you're willing to take on  
5 those responsibilities. And Mr. Nazem Akl?

6 MR. NAZEM AKL: Yes, sir.

7 THE COURT: You heard the conversation I had so  
8 far?

9 MR. NAZEM AKL: Pardon me?

10 THE COURT: You heard --

11 MR. NAZEM AKL: Yes, I had heard.

12 THE COURT: What I said, Mr. Herdman said, what  
13 Mr. Helmick said?

14 MR. NAZEM AKL: Yes, I heard.

15 THE COURT: And you're willing to post the  
16 premises at in Monclova; is that correct?

17 MR. NAZEM AKL: 8703 Garden Road.

18 THE COURT: Is that your home?

19 MR. NAZEM AKL: My home.

20 THE COURT: You live there with your family?

21 MR. NAZEM AKL: Yes, I do.

22 THE COURT: You heard what I was saying earlier,  
23 if they don't show up or if they violate an important  
24 condition of release, even if they've shown up, I will take  
25 the home, you understand that?

1 MR. NAZEM AKL: I understand that.

2 THE COURT: You'll also everything, you'll still  
3 be responsible on the mortgage?

4 MR. NAZEM AKL: Yes, Your Honor.

5 THE COURT: And knowing that, you are still  
6 willing to put the property up?

7 MR. NAZEM AKL: Yes.

8 THE COURT: And I have in the past, I mean, one  
9 time I took \$850,000 --

10 MR. NAZEM AKL: Yes.

11 THE COURT: -- some years ago. You also heard  
12 what I said, you don't have to do this, it's up to you.

13 MR. NAZEM AKL: Yes, I do.

14 THE COURT: And if you get cold feet at any time,  
15 become apprehensive or just say, hey, wait a minute, I  
16 don't want to run this risk, all you have to do is notify  
17 us, do you understand that?

18 MR. NAZEM AKL: Yes, Your Honor.

19 THE COURT: You can back out at any time.

20 MR. NAZEM AKL: Yes.

21 THE COURT: And likewise, do you understand that  
22 in your own self interest, if you have any reason to  
23 believe that either Mrs. Akl or Mr. Akl is about to or may  
24 or is even thinking about or considering fleeing, you  
25 absolutely must notify The Court and pretrial services and

1 the U.S. government, the U.S. attorney's office, you  
2 understand that?

3 MR. NAZEM AKL: Yes, Your Honor.

4 THE COURT: Okay. Mr. Helmick, other questions?

5 MR. HELMICK: No, Your Honor, I think that's  
6 sufficient. Thank you.

7 THE COURT: Mr. Herdman?

8 MR. HERDMAN: Briefly. Mr. Akl, do you own any  
9 other properties?

10 MR. NAZEM AKL: Yes, I do.

11 MR. HERDMAN: Can you list those?

12 MR. NAZEM AKL: Nick's Family Cafe.

13 THE COURT: I couldn't understand that.

14 MR. HELMICK: Nick's Family Cafe.

15 MR. NAZEM AKL: It's a restaurant.

16 MR. HERDMAN: What's the address of that property  
17 sir.

18 MR. NAZEM AKL: 2516 South Reynolds, Toledo,  
19 Ohio.

20 MR. HERDMAN: Do you know the proximate value of  
21 that property is?

22 MR. NAZEM AKL: Pardon me?

23 MR. HERDMAN: The proximate value of that  
24 property?

25 MR. NAZEM AKL: I can't recall. It's around

1 300 something.

2 MR. HERDMAN: Do you have a mortgage on that  
3 property?

4 MR. NAZEM AKL: No, I don't.

5 MR. HERDMAN: Is that your place of business?

6 MR. NAZEM AKL: That's my business.

7 MR. HERDMAN: And do you own any other  
8 properties.

9 MR. NAZEM AKL: No.

10 MR. HERDMAN: Do you own any properties overseas.

11 MR. NAZEM AKL: No.

12 MR. HERDMAN: Have you ever had a business  
13 relationship with either Mr. or Mrs. Akl?

14 MR. NAZEM AKL: No.

15 MR. HERDMAN: Just related to them?

16 MR. NAZEM AKL: First cousin.

17 MR. HERDMAN: I don't -- that's all.

18 THE COURT: Okay. Thank you. You may be seated.

19 In terms of the computer usage, it's my understanding that  
20 the children may need that for purposes of school and so  
21 forth. I'm going to restrict use by Mr. Akl of the  
22 computer, not to use a computer, do you understand that?  
23 And the custodian should understand that as well,  
24 Mr. Helmick, if you'll explain that.

25 MR. HELMICK: Very good, Your Honor.

9 MR. HERDMAN: I would, Your Honor. The other  
10 thing I would ask is these custodians have not previously  
11 testified with respect to Mr. Akl. They've not -- I  
12 believe Najah Joseph testified on behalf of Amera Akl, but  
13 this is an expansion of her custodial situation. I think  
14 the same is true of Attaya Akl.

15 THE COURT: And they're here?

16 MR. HELMICK: Yes, they are. I just assumed -- I  
17 was going to get to our request to expand the custodian, so  
18 whatever order you want to do this, Judge.

19 THE COURT: Don't let me adjourn without doing  
20 that.

21 MR. HELMICK: I will not do that, Your Honor.

22 THE COURT: Now, I will also grant leave to the  
23 government, if it desires, it will be a condition that the  
24 defendant's consent and the custodians, that the government  
25 may monitor either telephonic or electronic communications

1 without prior notice to the defendants or the custodians if  
2 the government desires. That's entirely up to the  
3 government. It occurs to me that probably if the  
4 government does do so, I should be at least informed ex  
5 parte, and obviously if the government does so, I assume  
6 that the monitors will be instructed about attorney, client  
7 communications, because obviously that those may occur, but  
8 I'll believe that's up to the government to do that.

9 MR. HERDMAN: Just so it's on the record, I think  
10 we would have to oppose as a concept -- signed consent  
11 form.

12 THE COURT: That will be a condition.

13 MR. HERDMAN: Custodians.

14 THE COURT: The custodians and the defendants --  
15 actually I think any -- anybody in the household 18 years  
16 old or -- of age or older, I think parents can waive on the  
17 behalf of the children.

18 MR. HERDMAN: You may be getting to this, Your  
19 Honor, but you discussed the restriction of cell phone  
20 usage in the residences where Mr. and Mrs. Akl would be  
21 staying.

22 THE COURT: And what would you -- how would you  
23 want me to formulate that?

24 MR. HERDMAN: I would -- it would have to be  
25 incumbent on the custodians to enforce that part of the

1 order. And the way you proposed it was because of the  
2 fungible nature of a cell phone, it would be too hard to  
3 monitor.

4 THE COURT: I agree. There is to be no cell  
5 phone usage by the defendant, and likewise the  
6 custodians -- I'm not going to take the custodian cell  
7 phones or children or whatever or spouses, but on the other  
8 hand the custodian should understand that if either of the  
9 defendants is observed in possession of or use of a cell  
10 phone, that is a material breach of the condition of  
11 release, and I am to be notified, along with the government  
12 and pretrial services. Failure to do so will place at risk  
13 both property which such custodian may have posted, plus it  
14 be held to answer show cause order contempt of court  
15 citation.

16 Mr. Herdman, other conditions that the government  
17 would desire without waiving its objection to the fact of  
18 release on these conditions?

19 MR. HERDMAN: We previously discussed a no  
20 contact order between the defendants, and obviously  
21 that's -- I know that that goes into The Court's decision  
22 to maintain separate residences, but I'd also expressed a  
23 concern about the ability because these are all family  
24 members, the ability of them to go back and forth  
25 potentially relaying messages between defendants.

1 THE COURT: Well, I'm a little concerned. It  
2 occurs to me both from the parental standpoint and also the  
3 ability to talk about the case and so forth, because at  
4 least one of the parents is not going to be with the  
5 children, and again, given the fact that you can, if you  
6 choose without monitoring their communications, I think  
7 it's probably sufficient for now if there's some specific  
8 reason or cause. I know we talked about this before, but  
9 think it through a little bit more. I'll be very candid  
10 with you, a million dollars is an awful lot to take from  
11 people who have stood up here in court and said, Judge, I  
12 know these people, I trust them, I know that you have said  
13 that the likelihood of conviction for purposes of this  
14 hearing only may be substantial, nonetheless, I'm willing  
15 to put this up. That, for me, is the best security we  
16 have. So for now anyway, I'm not going to impose that, but  
17 you can always apply ex parte if you want for  
18 reconsideration.

19 MR. HERDMAN: I wasn't clear on this from the  
20 pretrial report, the children will reside at 3911  
21 Brookfield, I assume they would be able to go see their  
22 mother at the other residence?

23 THE COURT: Sure, they're not under restraint.

24 MR. HERDMAN: It just was left unsaid what the  
25 custodial arrangement was going to be.

1 THE COURT: Of course. Thank you.

2 MR. HERDMAN: And I believe you might have hit  
3 this, but the electronic monitoring was going to be 24/7,  
4 and restrictions on travel out of state I thought was  
5 something else we had discussed.

6 THE COURT: Well, if they're basically to remain  
7 at home --

8 MR. HERDMAN: Right.

9 THE COURT: So I think that's implicit that  
10 there's no travel outside the residence which they're  
11 living.

12 MR. HERDMAN: We'd also discussed a condition of  
13 no contact with Lebanese consulate or embassy of the United  
14 States.

15 THE COURT: That's correct.

16 MR. HERDMAN: Or any consulate officials.

17 THE COURT: No contacts with any representative  
18 of any foreign government, not just Lebanese, but anybody  
19 else.

20 Anything else that the government would want me  
21 to consider?

22 MR. HERDMAN: I think these are -- that covers a  
23 list of conditions we have previously discussed.

24 THE COURT: Kyle, anything?

25 PROBATION OFFICER: May I approach?

1                   THE COURT: Sure. Yeah, obviously each of the  
2 defendants can leave the premises for purposes of  
3 consulting with counsel and coming to court, of course.  
4 That's the whole purpose of this. But again, the custodian  
5 has to be with them. In other words, they can't simply go  
6 by themselves.

7                   MR. HELMICK: Judge, may I ask -- this is what we  
8 did with Mr. Mazloum in the past, if they travel and bring  
9 them to my office I assume they don't have to be present  
10 the entire time I'm with my client?

11                  THE COURT: No, they shouldn't be because that  
12 would intrude upon their attorney, client representative.

13                  MR. HELMICK: But I mean physically within the  
14 suite if they have something to do.

15                  THE COURT: No, that's fine. They can make  
16 arrangements, I trust you're not going to say, okay, see  
17 you later.

18                  MR. HELMICK: Exactly.

19                  THE COURT: Now, the -- there are two things we  
20 have -- I have to explain to the prior custodians  
21 situation, right?

22                  MR. HELMICK: Yes, Judge. We do have -- we do  
23 have Najah Joseph, and then we have a couple of new  
24 proposed people as custodians as well.

25                  THE COURT: Why don't we play musical chairs and

1 have them come forward and the two gentleman can step back.

2 MR. HELMICK: Judge, just by way of introduction,  
3 to my immediate right we have Najah, N-A-J-A-H, Joseph.  
4 She is Amera's mother; and therefore, Hor's mother-in-law  
5 and she's currently a custodian for Amera. And next to her  
6 we have Attaya Mahmoud, and she is Amera's sister.

7 THE COURT: And can you spell that for Angela?

8 MR. HELMICK: Attaya, A-T-T-A-Y-A, and Mahmoud is  
9 M-A-H-M-O-U-D.

10 THE COURT: Okay.

11 MR. HELMICK: And Najah is already a custodian  
12 for Amera, as is Attaya, and we're asking if we can expand  
13 to Hor, if needed, so that we've got family switched off  
14 coverage, even though it's in another --

15 THE COURT: I understand. Do you understand what  
16 Mr. Helmick's been saying?

17 MS. MAHMOUD: Yes.

18 MS. JOSEPH: Yes.

19 THE COURT: I assume you were previously sworn  
20 earlier?

21 MR. HELMICK: Yes, they were. They both were.

22 THE COURT: That's fine. And that's agreeable to  
23 you?

24 MS. MAHMOUD: I'm sorry?

25 MR. HELMICK: It's okay with you?

1 MS. MAHMOUD: Yes.

2 THE COURT: Okay. And you heard about the  
3 consequences of failing to do all that you reasonably can  
4 see to it that your sister and brother-in-law appear in  
5 court and otherwise, and very importantly comply with the  
6 other conditions of release?

7 MS. MAHMOUD: Yes.

8 THE COURT: And you know that if you fail to do  
9 so, and I find that you have failed to do so, you will be  
10 cited for contempt of court and can be punished  
11 accordingly, do you understand that?

12 MS. MAHMOUD: Yes.

13 MS. JOSEPH: Yes.

14 THE COURT: Obviously the chance to be heard and  
15 all that, but otherwise it's a very serious obligation.  
16 You also understand that you don't have to do this, you  
17 wouldn't be the first person to say, Judge, I thought about  
18 this, and it's either too inconvenient or it's too risky  
19 or, Judge, I don't even want to tell you why, but I just  
20 want to be out, and you can be relieved without any further  
21 questions or an do. You understand that?

22 MS. MAHMOUD: Yes.

23 MS. JOSEPH: Yes.

24 THE COURT: And knowing that, you're willing to  
25 assume the additional responsibilities?

1 MS. MAHMOUD: Yes.

2 MS. JOSEPH: Yes.

3 THE COURT: Mrs. Joseph, you heard what I just  
4 discussed?

5 MS. JOSEPH: Yes, I did.

6 THE COURT: And likewise, you're willing to  
7 assume the additional responsibilities?

8 MS. JOSEPH: Yes.

9 THE COURT: So far everything's gone well I take  
10 it?

11 MS. JOSEPH: Yes.

12 THE COURT: And you heard what I just said about  
13 the very unhappy things that can happen if something goes  
14 wrong?

15 MS. JOSEPH: Yes.

16 THE COURT: Mr. Helmick, anything I should ask  
17 either of these ladies?

18 MR. HELMICK: I think that's good, Your Honor.

19 THE COURT: Mr. Herdman?

20 MR. HERDMAN: Mr. Brown's going to have --

21 THE COURT: Go ahead.

22 MR. BROWN: Thank you, Your Honor.

23 THE COURT: Just for the record --

24 MR. BROWN: For the record, Your Honor, AUSA  
25 Jonathan Brown for the United States.

1                   THE COURT: I should have acknowledged you  
2 before, Mr. Brown, I apologize.

3                   MR. BROWN: Not at all, Your Honor. I'll do it  
4 separately.

5                   THE COURT: One thing. Subject to request by the  
6 government for a stay, which candidly I would anticipate  
7 granting if it were requested for purposes of appeal, I  
8 think that I talked with Kyle, I think Mr. Akl has to  
9 probably remain in custody at least until sometime tomorrow  
10 until the various arrangements can be worked out.

11                  MR. HELMICK: I understand, Your Honor. All I  
12 ask is that his release not be held up if the government's  
13 contemplating consent of a waiver of Title III, that that  
14 not be a basis for holding him for release.

15                  THE COURT: No, because if that condition doesn't  
16 get satisfied, come on back.

17                  MR. HELMICK: Very good. Mr. Brown, I apologize  
18 for interrupting. Go ahead.

19                  MR. BROWN: Not at all Ms. Do you have children?

20                  MS. MAHMOUD: Yes, I do.

21                  MR. BROWN: School aged children?

22                  MS. MAHMOUD: Yes.

23                  MR. BROWN: You understand the conditions, you  
24 will always have to be with Mrs. Akl?

25                  MS. MAHMOUD: Yes.

1                   MR. BROWN: There might be times when either your  
2 husband is at work, or there might be some juggling with --

3                   MS. MAHMOUD: I understand.

4                   MR. BROWN: And that won't be a problem to you?

5                   MS. MAHMOUD: No.

6                   MR. BROWN: You also understand that there is a  
7 ban on cell phones and the use of the phones by Mrs. Akl,  
8 and you understand that you would be responsible for any  
9 violations while she is in your care?

10                  MS. MAHMOUD: Yes.

11                  MR. BROWN: As you've been serving as her  
12 custodian has she used a phone or used the Internet in your  
13 presence?

14                  MS. MAHMOUD: Yes.

15                  MR. BROWN: And you understand you won't be able  
16 to let her do that?

17                  THE COURT: She can use the land line phone to  
18 talk to her husband or talk to her family or whatever.

19                  MR. BROWN: Does she use a cell phone?

20                  THE COURT: Candidly I don't want to interfere, I  
21 don't want to pose an unreasonable restraint in her ability  
22 to maintain some sort of family life.

23                  MR. BROWN: But there is going to be a  
24 significant constriction of rights. And would that  
25 constriction bother you for -- if you were responsible?

1 MS. MAHMOUD: I understand.

2 MR. BROWN: And you also -- have you read the  
3 indictment?

4 MS. MAHMOUD: Yes.

5 MR. BROWN: And you understand that part of the  
6 allegations are that Mr. Akl had contact with senior  
7 members of Hezbollah, correct?

8 MS. MAHMOUD: From my understanding.

9 MR. BROWN: Do you have any idea who these  
10 individuals might have been?

11 MS. MAHMOUD: I'm sorry?

12 MR. BROWN: Do you have any idea of who those  
13 people might have been?

14 MR. HELMICK: I'm going to object.

15 THE COURT: I'm going to sustain. I'm not sure  
16 it's relevant. She's not charged with anything.

17 MR. BROWN: I would like to inquire of a couple  
18 questions based of an idea of risk of flight because the  
19 defendants have been in contact with this group overseas.  
20 That group might have the means to provide means or provide  
21 assistance to move them out of the country, so I will just  
22 like to establish that --

23 THE COURT: Why don't you rephrase the question.  
24 There was a certain -- unintentionally I think there was a  
25 certain accusatory finger overtone to it, and that's -- I

1 think that's all my concern was.

2 MR. BROWN: I apologize for that. Do you know of  
3 anybody who has contact or would have the same contacts  
4 Mr. Akl has overseas?

5 MS. MAHMOUD: No.

6 MR. BROWN: Do you have the types of contacts  
7 that the indictment alleges with those individuals  
8 overseas?

9 MS. MAHMOUD: No.

10 MR. BROWN: And you don't know anybody that would  
11 have those types of contacts?

12 MS. MAHMOUD: No.

13 MR. BROWN: Those are all the questions I have  
14 for you.

15 THE COURT: Okay. Any questions of Mrs. Joseph?

16 MR. BROWN: Again, just in terms of the  
17 constriction of types of communication, you understand that  
18 cell phones, Internet usage would be not just limited, but  
19 completely cut out?

20 MS. JOSEPH: Yes.

21 MR. BROWN: And you understand that you would be  
22 responsible --

23 MS. JOSEPH: Yes.

24 MR. BROWN: -- for any violation of that?

25 MS. JOSEPH: Yes, I do.

1                   MR. BROWN: Likewise, do you have any contacts  
2 with the groups or individuals alluded to in the  
3 indictment?

4                   MS. JOSEPH: No, I don't.

5                   MR. BROWN: Likewise, do you know of anybody that  
6 has contacts with those individuals or that group overseas?

7                   MS. JOSEPH: No, I don't.

8                   MR. BROWN: So you know of nobody who has the  
9 mean to contact these defendants?

10                  MS. JOSEPH: No.

11                  THE COURT: Okay. Mr. Helmick, anything further?

12                  MR. HELMICK: No, Your Honor. Thank you. I've  
13 got a couple more potential --

14                  MR. SCHULMAN: I don't want to -- I came here to  
15 make sure if there was any additional additions of bond  
16 she's been using that that's not a condition of her bond.  
17 The government never objected to that and the pretrial  
18 services never posed that at the time of The Court order.  
19 We certainly aren't going to stand in the way of the  
20 additional change of conditions, but she's been  
21 communicating with me almost daily on a cell phone and  
22 through e-mail, and I just want to make sure -- she also  
23 communicates with the children coming to school, making  
24 sure things are okay. I don't know if it's the intent of  
25 The Court to relinquish that, prevent the use of those

1 communication devices, if it's the intent, obviously flight  
2 risk for the government, they have never expressed any  
3 concern to me or pretrial services, but she wants to comply  
4 and she wants to facilitate his release, obviously, but she  
5 has been e-mailing me and cell phone usage with me, and she  
6 has actually visited with me all prior to the contact with  
7 pre-trial services. For example, she has a driver's  
8 license, she's never had to surrender that. I just want to  
9 make sure while she's here that any conditions of her bail  
10 be addressed to her.

11 THE COURT: Let me ask Mr. Brown and Mr. Herdman,  
12 at this point do you think in regards to counsel talking  
13 about any needs or necessity to change the conditions? I  
14 would be most willing to restrict any such usage to  
15 computer, to purposes of communicating with him by e-mail  
16 and cell phone and solely for purposes of communicating  
17 with the children and with counsel, realizing it's  
18 difficult to enforce because obviously cell phone  
19 monitoring can be more difficult.

20 MR. HERDMAN: I think part of what I would  
21 envision here is if there is a designated cell phone that  
22 we can identify that is used.

23 THE COURT: Yes, fine.

24 MR. HERDMAN: That would certainly go most of the  
25 way towards --

1 THE COURT: Computer?

2 MR. HERDMAN: But I had always presumed that  
3 Mrs. Akl be allowed to speak to Mr. Schulman on the phone.  
4 So if that's the phone that she has, then as long as we're  
5 made aware of it -- the only concern I have is additional  
6 cell phones be brought to her or using additional cell  
7 phone and try to evade surveillance.

8 MR. HELMICK: We'll include that in the order,  
9 the specific ESN number and phone number and so forth and  
10 exclude any other usage of any other cell phones.

11 MR. HERDMAN: Mr. Schulman, Mrs. Akl does not  
12 communicate with you using a land line?

13 MR. SCHULMAN: It's both, Judge, cell phone and  
14 land line, but it's always while she's in the residence.  
15 But I never instructed her not to use a cell phone.

16 THE COURT: What's the deal with the land line  
17 usage with the monitoring?

18 PROBATION OFFICER: It can be done.

19 MR. BROWN: That designated cell phone be her  
20 cell phone, so it's not one that other people would take  
21 out in the community but one that resides within the four  
22 walls of the apartment.

23 THE COURT: What I'll do is I'll have -- mark off  
24 the conditions so that they are satisfactory to you and --  
25 okay. The other --

1                   MR. HERDMAN: Just to preview, I don't know if --  
2 is there any intention to have Mr. Akl have access to a  
3 cell phone? We might as well address that now to the kids.

4                   MR. HELMICK: I had contemplated if a land line's  
5 available --

6                   THE COURT: Let's leave it at the land line.

7                   MR. HELMICK: He can make contact that way.

8                   THE COURT: Okay.

9                   MR. HELMICK: Judge, two new people sitting  
10 before you judge. First, Judge, this is Mr. Ali Joseph,  
11 and he is Amera's father; and therefore Hor's  
12 father-in-law, obviously. And we propose him to be a  
13 custodian for both defendants during their release. He has  
14 not been sworn before. The Court may want to swear him.

15                   THE COURT: Also with him is?

16                   MR. HELMICK: With him is Mohammed Joseph. And  
17 that's his brother. And we are asking, also proposing him  
18 for a custodian as well for Hor Akl, if it pleases The  
19 Court, but I think they both probably need to be sworn.

20                   (Mr. Mohammed Joseph and Mr. Ali Joseph

21                   sworn by courtroom deputy.)

22                   THE COURT: You've been here this afternoon, this  
23 noon time, correct, have you Mr. Joseph? I'm sorry, I  
24 didn't hear you. You've been here since we started this  
25 hearing today is that correct?

1 MR. ALI JOSEPH: Yes.

2 THE COURT: And did you hear the things that I  
3 talked about?

4 MR. ALI JOSEPH: Yes.

5 THE COURT: Did you understand what I was talking  
6 about?

7 MR. ALI JOSEPH: Yes.

8 THE COURT: And did you hear the things that the  
9 lawyers, Mr. Helmick, Mr. Brown and Mr. Herdman talked  
10 about?

11 MR. ALI JOSEPH: Yes.

12 THE COURT: Did you understand what they were  
13 saying?

14 MR. ALI JOSEPH: Yes.

15 THE COURT: And you understand that when you are  
16 acting as a custodian, when you're in the company of your  
17 daughter or son in law, you are responsible for them  
18 obeying everything that they're supposed to obey in my  
19 court order, do you understand that?

20 MR. ALI JOSEPH: Yes.

21 THE COURT: And that if they don't obey it, and  
22 if I have reason to believe that you didn't try to prevent  
23 it, you can be subject to contempt of court, do you  
24 understand that?

25 MR. ALI JOSEPH: Yes.

1                   THE COURT: Mr. Helmick, I assume you'll answer  
2 any other questions there may be and will make all that  
3 clear to the extent it may not?

4                   MR. HELMICK: I certainly will, Your Honor.  
5 Thank you.

6                   THE COURT: And knowing that, you're willing to  
7 assume these responsibilities?

8                   MR. ALI JOSEPH: Yes.

9                   THE COURT: And you understand you can back out  
10 at any time you want to?

11                  MR. ALI JOSEPH: Yes.

12                  THE COURT: If you'll give the microphone to your  
13 brother, please. And Mr. Joseph you've heard what I just  
14 talked about with your brother?

15                  MR. MOHAMMED JOSEPH: Yes, I do.

16                  THE COURT: And what I've been talking about with  
17 everybody else this noon time?

18                  MR. MOHAMMED JOSEPH: Yes, I do.

19                  THE COURT: And you understand that you have to  
20 do all that you reasonably can to make sure that each and  
21 every condition of release must be obeyed?

22                  MR. MOHAMMED JOSEPH: Yes, I do.

23                  THE COURT: And will be obeyed, and that you'll  
24 do all you can to see to it that it is obeyed, am I  
25 correct?

1 MR. MOHAMMED JOSEPH: Yes.

2 THE COURT: If you have any reason to believe  
3 it's not being obeyed or not to be obeyed, you must notify  
4 me, the U.S. attorney and pretrial services, do you  
5 understand that?

6 MR. MOHAMMED JOSEPH: Yes, I do.

7 THE COURT: You understand the consequences if  
8 you don't do so?

9 MR. MOHAMMED JOSEPH: Yes.

10 THE COURT: Finally, you understand you can back  
11 out at any time?

12 MR. MOHAMMED JOSEPH: Yes.

13 THE COURT: Mr. Helmick, any questions at all?

14 MR. HELMICK: Not at this time, thank you, Judge.

15 THE COURT: Mr. Brown, Mr. Herdman, any  
16 questions?

17 MR. HERDMAN: I do, Your Honor. Mr. Mohammed  
18 Joseph --

19 MR. MOHAMMED JOSEPH: Yes, I do.

20 MR. HERDMAN: -- how long have you known Mr. Akl?

21 MR. MOHAMMED JOSEPH: Since practically -- since  
22 he came to this country.

23 MR. HERDMAN: So early 1990?

24 MR. MOHAMMED JOSEPH: I don't know the date, but  
25 I know when he came here.

1 MR. HERDMAN: And he's married to your niece?

2 MR. MOHAMMED JOSEPH: Yes.

3 MR. HERDMAN: Sir, have you read the indictment  
4 in this case?

5 MR. MOHAMMED JOSEPH: Part of it, yes.

6 MR. HERDMAN: Are you aware of the allegations in  
7 the indictment? I'm not asking you to say -- I'm sorry,  
8 I'm not asking you to say whether you believe they're true  
9 or not, but are you at least aware of the allegations that  
10 Mr. Akl met with representatives of Hezbollah.

11 MR. MOHAMMED JOSEPH: Yes, I do.

12 MR. HERDMAN: And he met with those individuals  
13 to convey money, significant amounts of money to Hezbollah.

14 MR. MOHAMMED JOSEPH: Yes.

15 MR. HERDMAN: With all that in mind, you're still  
16 willing to serve as custodian?

17 MR. MOHAMMED JOSEPH: Yes.

18 MR. HERDMAN: Do you, Mr. Mohammed Joseph, do you  
19 have any contact with anyone in Hezbollah foreign terrorist  
20 organization?

21 MR. MOHAMMED JOSEPH: No.

22 MR. HERDMAN: Do you know of anybody who has any  
23 contacts?

24 MR. MOHAMMED JOSEPH: No.

25 MR. HERDMAN: And Mr. Ali Joseph --

1 MR. ALI JOSEPH: Yes.

2 MR. HERDMAN: -- you're Mr. Akl's father-in-law?

3 MR. ALI JOSEPH: Yes.

4 MR. HERDMAN: How long have you known Mr. Akl?

5 MR. ALI JOSEPH: I know him before he married my  
6 daughter.

7 MR. HERDMAN: Proximate number of years?

8 MR. ALI JOSEPH: 20 years.

9 MR. HERDMAN: And sir, are you familiar with the  
10 allegations that are in the indictment?

11 MR. ALI JOSEPH: Yes, I do.

12 MR. HERDMAN: Have you read the indictment?

13 MR. ALI JOSEPH: No, just what I hear.

14 MR. HERDMAN: Are you aware of the fact that in  
15 certain paragraphs, it's alleged that Mr. Akl met with  
16 representatives of Hezbollah in Lebanon?

17 MR. ALI JOSEPH: Yes.

18 MR. HERDMAN: And do you, sir, do you have any  
19 contacts in Hezbollah?

20 MR. ALI JOSEPH: No.

21 MR. HERDMAN: Do you know anyone in Hezbollah?

22 MR. ALI JOSEPH: No.

23 MR. HERDMAN: Do you know a person by the name of  
24 Naim Kassam.

25 MR. ALI JOSEPH: No.

1                   MR. HERDMAN: You don't know anyone named Naim  
2 Kassam?

3                   MR. ALI JOSEPH: No.

4                   MR. HERDMAN: Sir, when you -- when you came back  
5 to the country on June 12th, 2010 --

6                   MR. ALI JOSEPH: Yes.

7                   MR. HERDMAN: -- did you have an address book  
8 with you when you came back to the country?

9                   MR. ALI JOSEPH: I have address book.

10                  MR. HERDMAN: Did you have an address book with  
11 you?

12                  MR. ALI JOSEPH: Just a --

13                  MR. HERDMAN: Was one of those address books  
14 yours?

15                  MR. ALI JOSEPH: Yeah, when they search me at the  
16 airport what I have, I give it to them.

17                  MR. HERDMAN: And they were your address books?

18                  MR. ALI JOSEPH: Yes.

19                  MR. HERDMAN: Sir, isn't it true that in one of  
20 those address books, you had the name Naim Kassam, who is  
21 deputy secretary general of Hezbollah and telephone  
22 numbers?

23                  MR. ALI JOSEPH: No.

24                  MR. HERDMAN: It's not true?

25                  MR. ALI JOSEPH: No, not true.

1                   MR. MOHAMMED JOSEPH: Not true. I think my  
2 brother misunderstand because his cousin in the village  
3 where we came from will be my uncle's son, his name Naim  
4 Kassam, maybe he misunderstood.

5                   MR. HERDMAN: Your Honor, if you don't mind, I'm  
6 going to take a moment and just present Mr. Joseph with  
7 something and ask him to translate.

8                   THE COURT: Why don't you have it marked.

9                   MR. HERDMAN: And this is a roughly 100 page set  
10 of photocopied documents that was obtained by immigration,  
11 customs and border patrol on June 12th, 2010.

12 Mr. Joseph --

13                   MR. ALI JOSEPH: Yes.

14                   MR. HERDMAN: -- I'm showing you, do you  
15 recognize this?

16                   MR. ALI JOSEPH: Yes, this is my cousin -- my  
17 mother's sister's son, and this is my mother, brother's  
18 son. He's -- he is engineer for the electric company in  
19 Lebanon. I have his number when I was in Lebanon, and this  
20 is a cab driver.

21                   MR. HERDMAN: So can you --

22                   MR. ALI JOSEPH: Still I call him professor Naim  
23 Kassam.

24                   MR. HERDMAN: And he's an engineering professor?

25                   MR. ALI JOSEPH: He was bigger area, he was in

1       electricity.

2                    MR. HERDMAN: But there's a title in front of his  
3       name.

4                    THE COURT: Time out. I can't hear, and the  
5       court reporter can't hear, so if we can --

6                    MR. ALI JOSEPH: This is Naim Kassam.

7                    THE COURT: You'll spell that at some point for  
8       the court reporter?

9                    MR. HELMICK: I won't, but --

10                  MR. ALI JOSEPH: My mother's sister son, he  
11       drives a cab. Usually when we go overseas he pick us up  
12       from the airport. It's his home number and his cell  
13       number. Next one my mother, brother's son his name Naim  
14       Kassam. I put his name in a book I had with me instead,  
15       Naim Kassam is a Professor Naim Kassam, and this is his  
16       office number and his cell number.

17                  MR. HERDMAN: And those are Lebanese numbers,  
18       sir, numbers in Lebanese?

19                  MR. ALI JOSEPH: I wrote them in English.

20                  MR. HERDMAN: This is your address book, though,  
21       correct?

22                  MR. ALI JOSEPH: Yes, that's my writing.

23                  MR. HERDMAN: Okay. Your testimony is that that  
24       Naim Kassam is a different Naim Kassam than the one who's  
25       the deputy secretary general of Hezbollah?

1                   MR. ALI JOSEPH: I don't know anybody from  
2 Hezbollah.

3                   MR. HERDMAN: Okay. I have nothing further, Your  
4 Honor.

5                   THE COURT: Mr. Brown, anything?

6                   MR. BROWN: No, Your Honor.

7                   THE COURT: Mr. Helmick, anything further?

8                   MR. HELMICK: No, Your Honor.

9                   THE COURT: So what we're talking about,  
10 apparently, Mr. Herdman, is a same names --

11                  MR. HERDMAN: Well, Your Honor --

12                  THE COURT: I understand what you mean at least  
13 based upon the testimony today, that the names appear to be  
14 the same.

15                  MR. HERDMAN: The name is the same. I actually  
16 have a printout, Naim Kassam is the deputy secretary  
17 general of Hezbollah.

18                  THE COURT: And let me ask you this, do you have  
19 any other reason to believe that the individual there, is  
20 that the same individual presently?

21                  MR. HERDMAN: No, I do not, Your Honor.

22                  THE COURT: Okay. That's fine.

23                  MR. HELMICK: May I just ask, did the government  
24 check the telephone number?

25                  THE COURT: No, that's okay -- no, no --

1                   MR. HELMICK: No, I'm -- it's a genuine question.  
2 I'm not -- I'm just inquiring, do we know anything about  
3 the telephone numbers?

4                   THE COURT: My point is, I asked Mr. Herdman --  
5 let's put it this way, I'm willing to infer that if it had  
6 and if it had, quote, a hit, closed quote, we would have  
7 heard about it.

8                   In any event, I think that the line of inquiry  
9 was appropriate, and I think Mr. Herdman's questions have  
10 been answered.

11                  MR. HELMICK: Very good, Your Honor.

12                  THE COURT: I think it was entirely appropriate  
13 for the government to say, oops, time out, folks, wait a  
14 minute. What's this, and what's this has been answered.  
15 It's the wife's brother's son who happens to have the same  
16 name, whether it's as common as mine or Tom Smith, who  
17 knows.

18                  MR. HERDMAN: I have one --

19                  THE COURT: Also, Mr. Herdman, if reason develops  
20 along the course as a result of further inquiry to believe  
21 that the inference I'm drawing about two separate people  
22 isn't so, I trust we'll go from there.

23                  MR. HERDMAN: There's just one more nuance to  
24 point out. I have no further questions for the witnesses.

25                   With respect to the title that was in front of

1 the name, the Ustat, I can't pronounce it, in Arabic  
2 directly, but it's been spelled U-S-T-A-T or something  
3 along those lines, my understanding is that that is a --  
4 may be translated as Mr, but it's more sort of --

5 THE COURT: An honorific --

6 MR. HERDMAN: Correct. However, I have been told  
7 for teachers it may be an appropriate terminology, but it's  
8 also the only time that that ever appears in any of his  
9 address books, so I need to make the record clear on that  
10 respect too.

11 THE COURT: Okay. Anything further for anybody?

12 MR. HELMICK: Not from us, Your Honor.

13 THE COURT: Mr. Herdman, anything further?

14 MR. HERDMAN: I realize Mr. Joseph has an  
15 alternative explanation for the address book, I'm a little  
16 concerned about his -- I don't know if it was a memory laps  
17 or if it was a deliberate bought of forgetfulness in front  
18 of The Court, but I did credit the fact that there may be  
19 an alternative explanation for Naim Kassam in that address  
20 book. One would think that the name -- maybe I  
21 mispronounced it, perhaps, but that name alone is certainly  
22 well known in Lebanon, is my understanding, and I thought  
23 if there was an alternative question, a do you know anyone  
24 by that name, and I tried do it in a way that was  
25 non-accusatory, but I do have some concerns based on his

1 lack of candor with respect to that. I mean, that -- these  
2 are his address books. If this is his family, if someone  
3 asked me who Sam Herdman is, I would certainly know the  
4 name, and I would certainly answer appropriately and say  
5 that was my cousin or my cousin's son or whatever the  
6 situation may be, so I do have some serious concerns about  
7 Mr. Joseph as a custodian. And I know The Court has seen  
8 the fact that he has a criminal record, I know these all  
9 appear to be minor misdemeanors, there are few of them.  
10 There's more than one. And I am just uncomfortable with  
11 the thought of Mr. Joseph serving solely as a custodian  
12 really in the express sense of Mr. Kassam, I do have some  
13 serious concerns about him, and not for the other -- not  
14 for the other custodians I have to say.

15 THE COURT: I didn't hear --

16 MR. HERDMAN: Not for the other custodians. I  
17 think the other custodians have testified truthfully,  
18 candidly and fully with The Court. And to the extent that  
19 Mr. Akl's going to be released, I suppose I don't have any  
20 objection to those particular custodians.

21 MR. HELMICK: Judge, if I may, I guess a couple  
22 of things, my recollection is, and I understand, I  
23 appreciate Mr. Herdman's attempt that an open-ended  
24 question with regard to the name, but the context so far in  
25 terms of questions from The Government that related to

1 Hezbollah, the terrorist organization which may have been  
2 Ali Joseph's frame of reference in terms of what he heard.

3 THE COURT: Why don't you ask him how he can --  
4 if he can explain that.

5 MR. HELMICK: Mr. Joseph, I'll just ask you then,  
6 did you recognize the name at all when Mr. Herdman first  
7 asked you about that name? Did you understand what name it  
8 was?

9 MR. ALI JOSEPH: My brother called it to my  
10 attention, I forgot about my cousin -- my cousin Naim  
11 Kassam. My brother -- I misunderstand him. He just  
12 brought it to my attention.

13 MR. HELMICK: And he brought it to your attention  
14 right here when you were standing here?

15 MR. ALI JOSEPH: Right here. If I had it any  
16 other intention I wouldn't put it in my book, I would not  
17 carry it.

18 MR. HELMICK: When you looked at the book and  
19 Mr. Herdman drew your attention to that page, did you then  
20 recognize that writing that appeared there?

21 MR. ALI JOSEPH: Yes, it's my writing.

22 MR. HELMICK: And you also recognize the other  
23 name on that page?

24 MR. ALI JOSEPH: Yes, my cousin on my aunt's side  
25 Naim, on my uncle's side.

1                   MR. HELMICK: Okay. Can you proximate for The  
2 Court, based on that document you were shown, about how  
3 many entries are there in your address book, how many names  
4 do you think you have?

5                   MR. ALI JOSEPH: I have a full book.

6                   MR. HELMICK: Hundreds, tens, do you know how  
7 many appear in that book?

8                   MR. ALI JOSEPH: More than that.

9                   MR. HELMICK: So there are a good number of names  
10 that appear in here?

11                  MR. ALI JOSEPH: Yeah.

12                  MR. HELMICK: And you don't know exactly how  
13 many?

14                  MR. ALI JOSEPH: To count them, no. To be honest  
15 with you, no.

16                  MR. HELMICK: And sir, your failure to recognize  
17 here today, was that deliberate in any way, you're trying  
18 to mislead The Court in any way?

19                  MR. ALI JOSEPH: No. I never thought -- I never  
20 think about that.

21                  MR. HELMICK: All right. And with regard to your  
22 criminal history, you have not had the opportunity to see  
23 this, but the last criminal charge reflects against you was  
24 regarding sales in possession of liquor in 1992?

25                  MR. ALI JOSEPH: Yes.

1                   MR. HELMICK: Is that the last time you've been  
2 convicted of a crime at any time?

3                   MR. ALI JOSEPH: Yes.

4                   MR. HELMICK: Was that related to ownership  
5 running in Mug Shots Bar?

6                   MR. ALI JOSEPH: Yes.

7                   MR. HELMICK: You are no longer --

8                   MR. ALI JOSEPH: 36 years two violations and --

9                   MR. HELMICK: Currently you're not involved in  
10 the operation of that bar?

11                  MR. ALI JOSEPH: Now? No.

12                  MR. HELMICK: That's all I have.

13                  MR. HERDMAN: Nothing further.

14                  THE COURT: I will accept Mr. Joseph as a  
15 custodian. I think under all the circumstances, I think  
16 he'll perform his obligations. And obviously, Mr. Joseph,  
17 the government has a concern, and I simply want to remind  
18 you that in addition to the obligations that you have to  
19 The Court, if the government's concerns are well founded  
20 and either of the defendants or both of them flee or  
21 attempt to flee, the government may well focus on you and  
22 undertake to ascertain any involvement or misconduct on  
23 your part. Do you understand that?

24                  MR. ALI JOSEPH: Yeah, I understand that.

25                  THE COURT: Which potentially could lead to very

1 serious criminal charges against you, you understand that?

2 MR. ALI JOSEPH: Yes.

3 THE COURT: Mr. Brown, Mr. Herdman, anything  
4 further?

5 MR. HERDMAN: No, Your Honor, not at this time.

6 THE COURT: Let me suggest this, that counsel  
7 work -- is there any issues about exact terminology of the  
8 conditions?

9 MR. HERDMAN: Well, I haven't seen anything on  
10 paper yet, but I think the way they spelled it out so far  
11 there's no word --

12 THE COURT: Pardon me.

13 MR. HERDMAN: There's no wording I would change  
14 at this point, although I haven't seen --

15 THE COURT: That's what I thought. Look at it,  
16 and if there's other change or whatever, talk it over  
17 and -- the main thing I don't want you -- either of you  
18 leaving here today and then, you know, getting the order  
19 and say, oops, wait a minute. That's not what The Judge, I  
20 heard The Judge say or whatever. I don't think there will  
21 be a problem in that regard, but as a matter of caution.  
22 Are you prepared now to say whether you are likely for  
23 appeal, or would you like a bit of time to consult and  
24 determine that?

25 MR. HERDMAN: As with everything in this realm,

1 Your Honor, I would like to consult with my superiors.

2 THE COURT: Let's --

3 MR. SCHULMAN: Judge, I think I have one more  
4 proposed custodian just for Amera.

5 THE COURT: Okay. Fine.

6 MR. SCHULMAN: Do you just have a few moments so  
7 I can take care of her quickly?

8 THE COURT: No, that's fine. I misunderstood.

9 Mr. Herdman, do you think you could notify me and counsel  
10 by maybe noon tomorrow?

11 MR. HERDMAN: Absolutely, yes.

12 THE COURT: And if you'll introduce the lady for  
13 me, please.

14 MR. SCHULMAN: I will, Your Honor, M-A-H-A, last  
15 name Mahmoud, M-A-H-M-O-U-D, like the other spelling, and  
16 she is proposed custodian for Amera Akl only. And I  
17 believe she needs to be sworn. She has not testified  
18 previously.

19 (Maha Mahmoud sworn by courtroom deputy.)

20 THE COURT: And you've been present -- have you  
21 been here this entire time?

22 MS. MAHA MAHMOUD: 19 years.

23 THE COURT: No, I mean here in the courtroom?

24 MS. MAHA MAHMOUD: Yes.

25 THE COURT: You've heard everything that's gone

1 on?

2 MS. MAHA MAHMOUD: Yeah.

3 THE COURT: Did you understand everything that's  
4 gone on?

5 MS. MAHA MAHMOUD: Yeah.

6 THE COURT: And how do you -- how do you know  
7 Mrs. Akl?

8 MS. MAHA MAHMOUD: She's my sister-in-law's  
9 sister.

10 MR. HELMICK: Sister-in-law's sister?

11 THE COURT: Okay. How long have you known her?

12 MS. MAHA MAHMOUD: 17 years.

13 THE COURT: And you're willing to, on occasion,  
14 to be in her company and her custodian?

15 MS. MAHA MAHMOUD: Yes.

16 THE COURT: And you know you don't have to do  
17 that?

18 MS. MAHA MAHMOUD: Yes.

19 THE COURT: Do you know that while you are with  
20 her, you must do everything that you reasonably can to see  
21 to it that she complies with my court order?

22 MS. MAHA MAHMOUD: Yes.

23 THE COURT: And if you don't, you can be in  
24 trouble, you understand that?

25 MS. MAHA MAHMOUD: Yes.

1                   THE COURT: And you can change your mind at any  
2 time.

3                   MS. MAHA MAHMOUD: Yes.

4                   THE COURT: Do you understand that you can say,  
5 oops, wait a minute, I don't want to do this anymore?

6                   MS. MAHA MAHMOUD: Yes.

7                   THE COURT: Okay. Mr. Helmick, have you spoken  
8 with her and described the responsibilities?

9                   MR. HELMICK: Only briefly this afternoon, Judge,  
10 but I would certainly meet with the custodians after  
11 today's hearing and answer any questions that they have,  
12 answer any questions that they have about the  
13 responsibilities they've taken on.

14                   THE COURT: One thing occurs to me, talk this  
15 over with the government and custodians, I think it would  
16 be appropriate if it's possible, reasonably possible to  
17 have sort of a line up so that Kyle particularly knows  
18 who's going to be since we have a number of people, some of  
19 them on different occasions responsible for either one.

20                   MR. HELMICK: So maybe a proposed schedule of  
21 custodians for coverage, Judge, we'll work on that as well.

22                   THE COURT: And then the other thing, perhaps  
23 have the contact information, particularly cell phone  
24 information --

25                   MR. HELMICK: Very good.

1 THE COURT: -- of the custodians and so forth.

2 MR. HELMICK: We'll provide Mr. Herdman with that  
3 as well and the government.

4 THE COURT: Mr. Herdman, any questions?

5 MR. HERDMAN: Just briefly. Ms. Mahmoud, are you  
6 Akrum Mahmoud's sister?

7 MS. MAHA MAHMOUD: No, I'm Akrum's sister-in-law.

8 MR. HERDMAN: So your husband is who?

9 MS. MAHA MAHMOUD: Akl's brother.

10 MR. HERDMAN: What's his last name?

11 MS. MAHMOUD: K-A-R-E-E-M.

12 MR. HELMICK: Kareem?

13 MR. HERDMAN: And he's not one of the  
14 individuals -- you haven't posted any property?

15 MS. MAHA MAHMOUD: No.

16 THE COURT: And are you familiar with the  
17 indictment in this case?

18 MS. MAHA MAHMOUD: Yes.

19 MR. HERDMAN: Have you read the indictment?

20 MS. MAHA MAHMOUD: Yes.

21 MR. HERDMAN: You have read the indictment?

22 MS. MAHA MAHMOUD: Yes.

23 MR. HERDMAN: You're familiar with respect to  
24 both Mr. and Mrs. Akl?

25 MS. MAHA MAHMOUD: Yes.

1                   MR. HERDMAN: You're familiar with the  
2 allegations that Mr. Akl traveled over to Lebanon and met  
3 with representatives of a foreign terrorist organization,  
4 Hezbollah?

5                   MS. MAHA MAHMOUD: Yes.

6                   MR. HERDMAN: Despite that, you're still willing  
7 to serve as a custodian for Mrs. Akl?

8                   MS. MAHA MAHMOUD: Yes.

9                   MR. HELMICK: Nothing here, Judge.

10                  THE COURT: Anything else to be presented this  
11 afternoon?

12                  MR. HELMICK: May I have one moment, Judge?  
13 Judge, we have nothing further at this time.

14                  THE COURT: Okay. One thing should be clear, and  
15 that is all of the property owners will have to sign the  
16 bond before release can occur, and also that custodians, I  
17 want them -- I won't hold that part up, but the consents  
18 with regard to the monitoring will have to be signed by the  
19 end of next week at the latest, just given the holiday  
20 weekend coming up I'd make it a little bit sooner.

21                  Is there anything else that the government would  
22 ask presently.

23                  MR. HERDMAN: Not with respect to conditions,  
24 Your Honor. I will have an answer for The Court and  
25 counsel by noon tomorrow with respect to possibility of an

1 appeal.

2 MR. HELMICK: And Judge, having -- having  
3 reviewed the transcript in detail from our last proceeding,  
4 I think between you and the government you covered all the  
5 conditions that were discussed the last time, I have the  
6 checklist and I think you covered all of them.

7 THE COURT: Okay. Let me -- give me one minute,  
8 please.

9 Just for the record, my understanding is that the  
10 legal standard is that defendant is entitled to be released  
11 under the law, provided that The Court can be reasonably  
12 assured that the defendant will appear and not be a danger  
13 to the safety of any other person in the community. As  
14 previously indicated, I think that that's a substantially  
15 lesser concern than is the concern about risk of flight and  
16 failure to appear. I am persuaded that the conditions that  
17 I have imposed, particularly the third party custodial  
18 relationships, and the posting of substantial property  
19 bonds, as I say around or in excess of a million dollars, I  
20 will conclude that those conditions and the others being  
21 imposed are sufficient reasonably to ensure that both  
22 defendants will appear as ordered. There can never be any  
23 absolute certainty in that regard or really with regard to  
24 just about everything else. But I am persuaded that each  
25 of the custodians is entering upon his or her

1 responsibilities knowingly, intelligently and voluntarily  
2 and fully aware of the very serious consequences that will  
3 result in the event any of the custodians is determined to  
4 have known or have had cause to apprehend that a violation  
5 of a material condition of release was occurring, was --  
6 might be occurring, or even was being contemplated. And  
7 they will, in the event of the violation, they will be held  
8 to answer those apparently responsible will be held to  
9 answer upon a contempt of court citation and an order to  
10 show cause why they should not be held in contempt of  
11 court.

12 I also believe that each of the individuals who  
13 is posting property understands fully and completely that  
14 in the event of a failure to appear or a violation of any  
15 other substantial material condition of release imposed to  
16 them here that that property will be gone, all of it will  
17 be gone. And the equity will be, once the property is  
18 sold, will be property of the United States government, and  
19 whatever encumbrances, mortgages and so forth, whatever  
20 exists on the property, the owners will be liable for those  
21 amounts. And therefore, I am ordering -- or granting the  
22 request that this defendant be released subject to those  
23 conditions. Mr. Akl, you understand --

24 THE DEFENDANT: Yes.

25 THE COURT: -- a number of people will have

1 expressed their confidence that you will appear and  
2 otherwise comply with each and every condition of release,  
3 do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: They have put their trust and faith  
6 in you that you will do so, do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And do you understand that these  
9 relatives and friends of yours, whether they are custodians  
10 or have posted property, will lose the property if you fail  
11 to appear?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Otherwise violates a material  
14 condition of release, and that includes Internet usage and  
15 use of the telephone for any other reason other than that  
16 which I allow. Do you understand that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: That in addition to that, if you fail  
19 to appear or violate any of the other substantial material  
20 condition of release, these friends of yours, these family  
21 members, will be held to answer to a contempt of court  
22 citation?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And if I find that they have violated  
25 my court order and failed to discharge in every respect,

1 the obligations that they have assumed as third-party  
2 custodians, they will be punished?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: You may be running around somewhere  
5 but they won't be. Did you do you understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Anything further for The Government?

8 MR. HERDMAN: No, Your Honor.

9 THE COURT: Mr. Helmick?

10 MR. HELMICK: No, Your Honor, not at this time.

11 Thank you.

12 THE COURT: I will sign the order upon its  
13 submission to me. That will conclude these proceedings.

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1 C E R T I F I C A T E

2

3 I certify that the foregoing is a correct transcript

4 from the record of proceedings in the above-entitled matter.

5

6 s:/Angela D. Nixon

7 ----- Date

8 Angela D. Nixon, RPR, CRR

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